

<b>ROBERT TROY MCCLURE, #1420457</b>	<b>§</b>	
<b>VS.</b>	<b>§</b>	<b>CIVIL ACTION NO. 5:10cv79</b>
<b>NATHAN BAGGETT, ET AL.</b>	<b>§</b>	

Plaintiff Robert Troy McClure, an inmate confined at the Telford Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation concluding that the complaint should be dismissed. The Plaintiff has filed objections.

The Plaintiff complained in the original complaint that he was denied a meat free food tray on January 10, 2010. The Report and Recommendation correctly noted that the fact that an inmate may have missed a meal “does not give rise to the level of a cognizable constitutional injury.” *Palmer v. Johnson*, 193 F.3d 346, 352 (5th Cir. 1999). Furthermore, the fact that prison officials may have placed an item on an inmate’s food tray which he is not supposed to eat does not provide a basis for a cognizable civil rights lawsuit. *Martinez v. Griffin*, 840 F.2d 314, 315 (5th Cir. 1988). In his

objections, the Plaintiff asserted that this incident was part of a pattern of retaliation he has experienced since he filed a civil rights lawsuit in the Western District of Texas in 2009 in *McClure v. Morales*, Civil Action No. 5:09-cv-00164-OLG. The objections lack for two reasons. First of all, issues raised for the first time in objections to a report by a magistrate judge are not properly before a district court. *Finley v. Johnson*, 243 F.3d 215, 219 n.3 (5th Cir. 2001); *United States v. Armstrong*, 951 F.2d 626, 630 (5th Cir. 1992); *Harrison v. Smith*, 83 Fed. Appx. 630, 631 (5th Cir. 2003). Secondly, the allegations of retaliation are vague and conclusory and do not show that the Defendants acted with a retaliatory intent. *Woods v. Smith*, 60 F.3d 1161, 1166 (5th Cir. 1995), *cert. denied*, 516 U.S. 1084 (1996). The Court concludes that the objections lack merit, thus the findings and conclusions of the Magistrate Judge are adopted as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the civil rights complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). All motions not previously ruled on are **DENIED**.

**SIGNED this 24th day of May, 2010.**

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE